

Serial No. 10/042,603  
Filed: 01/09/2002  
Page 13 of 19

Examiner: Theresa T. Snider  
Group Art Unit: 1744

### REMARKS

By the present amendment, the Specification has been amended as requested by the Examiner to correct some clerical errors. In addition, the specification has been amended at page 20, line 15 to change the numeral 72 to 74.

In the Office Action, restriction was required between the following groups of claims under 35 U.S.C. § 121:

- I. Claims 1-22 and 48-51;
- II. Claim 23-47; and
- III. Claims 52-58.

This restriction requirement is respectfully traversed. Applicant reiterates the remarks with respect to the previous restriction requirement in the Response filed October 15, 2002. It is believed that these remarks are equally applicable to the current restriction requirement. Applicants confirm the provisional election of Group I, claims 1-22 and 48-51 to prosecute in this application.

### Drawings:

The Examiner objected to the drawings under 37 C.F.R. § 1.84(p)(5) because the allegedly did not include the numerals 302, 222 and 400. Applicant believes that these numerals are shown on the drawings. Numeral 302 is shown in FIG. 10. Numeral 222 is shown in FIG. 15. Numeral 400 has not been shown but the specification has been amended to change the numeral 400 on page 16, line 3 to 410 which is shown in the drawings.

The drawings are further objected to for failing to comply with 37 C.F.R. § 1.84(p)(4) because the reference character 72 has been used to designate both a connector and a fitting. The specification has been amended on page 20, line 15 to change the numeral "72" to "74". This amendment to the specification obviates any objection to the drawings since the same numeral was not used in the drawings to designate both parts.

Serial No. 10/042,603  
Filed: 01/09/2002  
Page 14 of 19

Examiner: Theresa T. Snider  
Group Art Unit: 1744

**Specification:**

The specification was objected because of clerical errors. The Examiner's suggestion with respect to the specification have been made. A complete review of the specification to determine whether the articles "a" or "an" are appropriately used has not been made.

The Examiner also objected to the title. Applicant believes that the title is appropriate to the claims because the claims refer to applying protectant to a carpet surface, either by way of method or apparatus. Applicants request that the examiner hold this objection in abeyance until all remaining claims in the application have been allowed. Applicants will reassess the title at that time.

**Claim Rejections - 35 U.S.C. § 112:**

Claims 1-22 and 48-51 have been rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

By the present amendment, amendments of editorial nature have been made to the claims obviate the Examiner's objections to the claims. All of the Examiner's suggestions were followed with the exception of claims 3-14, 11 and 18-22 which further define limitations of elements found in the preamble of the Jepson claim. Applicant does not admit these features are prior art even though they further defined an element in the preamble. These dependent claims define novel features of the claimed invention. It is believed that the claims are accurate as written.

With respect to claims 2-22, line 1, Applicant believes that the article "a" or "the" is appropriate in dependent claims. Applicant knows of no authority that requires the article "the" to be used in a dependent claim.

Further, with respect to claim 48, line 20, the word "chamber" is believed to be appropriate but this phrase has been changed to read "liquid recovery chamber" which is set forth in lines 14 and 15 of this claim.

It is believed that the claims all comply with 35 U.S.C. § 112.

**Claim Rejections - 35 U.S.C. § 103**

Serial No. 10/042,603  
Filed: 01/09/2002  
Page 15 of 19

Examiner: Theresa T. Snider  
Group Art Unit: 1744

Applicants' appreciate the Examiner's admonition with respect to the patentability of the claims under 35 U.S.C. § 103(a) and joint inventions. Applicants believe that all of the inventors named in the application were obligated to assign their inventions to Applicants Assignee, BISSELL Homecare, Inc., at the time the inventions defined in the claims were made.

Claims 1-4, 11 and 18-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the admitted state of the prior art, as set forth in the preamble of the Jepson claim (hereinafter ASPA) in view of the Frohbieter U.S. Patent 4,458,377. This rejection is respectfully traversed.

The ASPA sets forth an upright deep cleaner wherein a handle is pivotally mounted to a base wherein the base mounts a liquid dispenser, a suction nozzle and a recovery tank and an above floor hose is connected at one end to the recovery tank and has an open end for alternately recovering liquid through the above floor hose.

The Frohbieter '377 patent discloses an extraction cleaning machine which has a recovery tank, a suction nozzle and a dispenser all mounted on a base. In addition, the Frohbieter '377 extractor has an above floor hose that carries a delivery conduit 94 that is connected to a faucet for supply of water under pressure and further mounts a detergent supply container having a selector valve 97 for controlling delivery of either clear water from the supply conduit 28 or water with detergent added from the supply 96. The valve 97 is said to be a conventional eductor for aspirating into the cleaning liquid controlled amounts of detergent from container 96 in a conventional manner.

The combination of ASPA and Frohbieter '377 is traversed. There is no basis for making the alleged combination. The Examiner has cited no suggestion as to why the alleged combination can't be made.

However, even if the combination were to be made, it still would not reach Applicants' claimed invention. At best, the alleged combination would have the Frohbieter detergent supply container mounted to a delivery tube in much the same way as in the Frohbieter '377 patent. Independent claim 1 calls for mounting a second liquid dispenser at an open end of the above floor hose. A dispenser 95 in Frohbieter '377 is mounted to a floor tool that is connected to a

Serial No. 10/042,603  
Filed: 01/09/2002  
Page 16 of 19

Examiner: Theresa T. Snider  
Group Art Unit: 1744

wand 87. It is not mounted to an open end of the hose 90. Further, the alleged combination of ASPA and Frohbieter '377 would not have a fluid reservoir mounted to the second liquid dispenser for dispensing a fluid onto a surface. The fluid reservoir 96 of Frohbieter '377 is mounted to the conduit 94 and not to the dispenser 95. Thus, claim 1, and the claims dependent thereon, that is, claims 2-22, patentably define over the Frohbieter '377 patent.

Further, claims 3-8 distinguish over the alleged combination of ASPA and Frohbieter '377 in calling for the second liquid dispenser to be without a suction nozzle opening. This feature is not disclosed in ASPA or in the Frohbieter '377 patent. Thus, these claims are additionally patentable over the alleged combination of ASPA and Frohbieter '377.

Claims 18-20 and 22 further distinguish over the alleged combination of ASPA and Frohbieter '377 in calling for a body of liquid surface protectant composition in the reservoir (claim 18), a body of liquid stain repellant composition in the reservoir (claim 19), a body of liquid miticide composition in the reservoir (20), and wherein the second liquid dispenser is void of a suction nozzle. These features are not disclosed in either of ASPA or Frohbieter '377.

In view of the foregoing, it is submitted that claims 1-4, 11 and 18-22 patentably define over ASPA and Frohbieter '377.

Claims 1-20 have been further rejected under 35 U.S.C. § 103(a) as being unpatentable over ASPA in view of Frohbieter '377 as applied to claim 1 above and further in view of the Kasen et al. U.S. Patent No. 6,041,472. This rejection is respectfully traversed.

The Kasen et al. '472 patent essentially discloses the subject matter of the ASPA and in addition discloses that the detergent tank 44 could hold an insecticide solution that is mixed with water or other liquid from the clean water in an adjustable ratio for the treatment of the fleas or ticks, as an example.

Applicants agree that the Kasen et al. '472 patent can be combined with ASPA because ASPA does describe the Kasen et al. '472 patent disclosure. However, the combination of the Kasen et al. '472 patent with Frohbieter '377 is traversed. There is no basis for making the alleged combination.

Serial No. 10/042,603  
Filed: 01/09/2002  
Page 17 of 19

Examiner: Theresa T. Snider  
Group Art Unit: 1744

However, even if the combination were to be made, however untenably, it still would not reach Applicants' claimed invention. Claim 1 defines over the alleged combination of ASPA, Frohbieter '377 and Kasen et al. '472 in the same fashion that it defines over the alleged combination of ASPA in view of Frohbieter. There is no disclosure in any of the references of mounting a fluid reservoir to the second liquid dispenser for dispensing a fluid onto the surface as required by independent claim 1. The Kasen et al. '472 patent discloses a liquid reservoir in the base which is connected to an above floor tool through an above floor hose. There is no reason why Kasen would mount yet another fluid reservoir to a second liquid dispenser mounted to an open end of a hose. Thus, it is believed that claims 1-20 patentably define over the alleged combination of ASPA in view of Frohbieter '377 and Kasen et al. '472.

Further, claims 3-10 further distinguish over the alleged combination of ASPA, Frohbieter '377 and Kasen et al. '472 in calling for a second liquid dispenser without a suction nozzle opening. This concept is not disclosed in any of the references, nor is it disclosed in the alleged combination of references.

Claims 9 and 17 define over the alleged combination of ASPA, Frohbieter '377 and Kasen et al. '472 in calling for the reservoir to be vented through the threads in the neck. The Examiner has pointed to no passage in any of these references that discloses this concept.

Claims 18-20 call respectively for a body of liquid surface protected composition, liquid stain repellent composition and liquid miticide composition in the reservoir. This concept is not disclosed in any of the references. Thus, claims 18-20 further define over the alleged combination of ASPA, Frohbieter '377 and Kasen et al. '472 patents. The Examiner's allegation of obviousness to one of ordinary skill in the art of the appropriate solution to place in the supply tank finds no support in any of the references.

Claims 48-51 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kasen et al. '472. This rejection is respectfully traversed.

The Kasen et al. '472 patent is discussed above.

Claims 48-51 call for a portable surface cleaning apparatus including a base housing, an upright handle pivotally mounted to the base housing, a liquid dispensing system, and a fluid

Serial No. 10/042,603  
Filed: 01/09/2002  
Page 18 of 19

Examiner: Theresa T. Snider  
Group Art Unit: 1744

delivery system wherein a liquid supply tank has a body of a liquid protectant solution therein. This concept is not disclosed in Kasen et al. '472. There is no suggestion in Kasen et al. '472 of using an upright deep cleaner as set forth in claims 42-51 for the dispensing of a protectant solution to a carpet. Thus, it is believed that claims 48-51 patentably define over Kasen et al. '472. It would not be obvious to one of ordinary skill in the art to determine the most appropriate solution to place in the supply tank of Kasen et al. '472 because Kasen et al. '472 does not disclose a protectant solution in a supply tank. It would not be obvious to do so because the prior art does not disclose this concept.

Claims 49-51 further define over the Kasen et al. '472 patent in calling for the liquid protectant to, respectively, be a liquid stain repellent composition, a liquid miticide composition and a liquid mildew repellent composition. These concepts are not disclosed in Kasen et al. '472. The Examiner has not cited any reference that would support her conclusion that it would be obvious to one of ordinary skill in the art to determine the most appropriate solution to place in the supply tank to allow for desired treatment. It is not a question of the most appropriate solution. It is a question of a special solution to be place in the supply tank. A special solution that the prior art does not recognize as being dispensed from an upright deep cleaner as defined in claim 48.

It is noted with appreciation that claims 5-10 and 12-17 would be allowable if rewritten in independent form to overcome the rejections under 35 U.S.C. § 112. It is believed that Applicant has amended the claims to conform with 35 U.S.C. § 112 and thus these claims are allowable. In view of Applicants' position on the independent claim 1, these claims have not been written in independent form.

Serial No. 10/042,603  
Filed: 01/09/2002  
Page 19 of 19

Examiner: Theresa T. Snider  
Group Art Unit: 1744

In view of the forgoing remarks and amendments, it is submitted that all of the claims are in condition for allowance. Early notification of allowability is respectfully requested.

Respectfully submitted,

Gary A. Kasper et al.

Dated: 3.25.03

By: 

John E. McGarry, Reg. No. 22,360  
McGARRY BAIR LLP  
171 Monroe Avenue, NW, Suite 600  
Grand Rapids, Michigan 49503  
616-742-3500

G0089944

FAX RECEIVED  
MAR 26 2003  
GROUP 1700